



February 22, 2001

HOUSE BILL No. 1891

DIGEST OF HB 1891 (Updated February 21, 2001 12:02 PM - DI 97)

Citations Affected: IC 20-5; IC 20-6.1; IC 20-8.1; IC 20-10.1; IC 21-3; IC 31-37; IC 34-13; IC 34-30; IC 35-45; IC 35-50; noncode.

Synopsis: Discipline in schools. Requires a school corporation to provide an educational program for students who receive expulsions. Provides that a teacher who is assaulted while performing the teacher's duties must receive full compensation for any resulting leave that is required by the teacher and that the compensation does not count against the teacher's sick leave or vacation leave benefits. Provides contingency leave with pay for a teacher who lives in a county in which an emergency is declared. Provides that an expelled student's education program may include an assignment to attend various kinds of programs. Provides a funding grant administered by the department of education, establishes the amount of the grant as equal to the amount
(Continued next page)

Effective: July 1, 2001.

Dvorak, Lawson L

January 17, 2001, read first time and referred to Committee on Education.
February 21, 2001, amended, reported — Do Pass.

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provided per pupil under current law for alternative education grants, and obtains funding from money appropriated under current law for alternative education grants. Requires consultation with a teacher acting in an advisory capacity before action is initiated to suspend or expel a student or to take other disciplinary action against a student. Provides that an expelled student's absence from the student's educational program is a violation of the compulsory school attendance laws. Provides for the payment of transfer tuition for transfer students who are expelled. Requires the reporting of a threat or intimidation of a school employee. Requires the department of education to establish and seek the adoption as a local school policy of a parental declaration of responsibilities concerning the education of the parent's child. Includes in the average daily membership (ADM) of a school corporation those expelled students who receive educational services. Requires a school corporation to pay a judgement, compromise, or settlement of a claim against an employee acting within the scope of the employee's employment. Establishes a specific actionable offense for communicating a threat by using school or other governmental property, including electronic equipment or systems. Provides for notification of a student's principal by the court if the student is adjudicated to be a delinquent child or if the student is convicted of a criminal offense.

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February 22, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1891

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-5-2-1.2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.2. (a) Each school
3 corporation shall conduct an educational program for all children who
4 reside within the school corporation in kindergarten and in grades 1
5 through 12, ~~During the 1990-91 school year, each school corporation~~
6 ~~may provide each preschool child with a disability with an appropriate~~
7 ~~special education as required under IC 20-1-6-14.1 using local or~~
8 ~~available federal funds. Beginning with the 1991-92 school year,~~
9 **including students receiving an expulsion under IC 20-8.1-5.1.** Each
10 school corporation shall provide each preschool child with a disability
11 with an appropriate special education as required under IC 20-1-6-14.1
12 only if the general assembly appropriates state funds for preschool
13 special education.
14 (b) Each school corporation may:
15 (1) conduct an educational program for adults and children over

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fourteen (14) years of age not attending a program under subsection (a);

(2) provide instruction in vocational, industrial, or manual training;

(3) provide libraries for the schools of the school corporation;

(4) provide public libraries open and free for the use and benefit of the residents and taxpayers of the school corporation where permitted by law;

(5) provide vacation school and recreational programs;

(6) conduct other educational or other activities as are permitted or required to be performed by law by any school corporation; and

(7) provide a school age child care program that operates during periods when school is in session for students who are enrolled in a half-day kindergarten program.

(c) Each school corporation shall develop a written policy that provides for:

(1) the implementation of a school age child care program for children who attend kindergarten through grade 6 that, at a minimum, operates after the school day and may include periods of time before school is in session or periods when school is not otherwise in session (commonly referred to as latch key programs) and is offered by the school corporation; or

(2) the availability of the school corporation's buildings or parts of the school corporation's buildings to conduct the types of programs described in subdivision (1) by nonprofit organizations or for-profit organizations.

(d) The written policy required under subsection (c) must address compliance with certain standards for reasonable care for children served under a child care program offered under this subsection, including:

(1) requiring the offering entity to acquire a particular amount of liability insurance; and

(2) establishing maximum adult to child ratios governing the overall supervision of the children being served.

If a school corporation implements the school corporation's own child care program or enters into a contract to provide these programs, the school corporation may not assess a fee for the use of the building. However, the school corporation may assess a fee to reimburse the school corporation for providing security, maintenance, utilities, school personnel, or other added costs directly attributable to the use of the buildings for the programs. In addition, if a school corporation offers the school corporation's own child care program, the school corporation

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may assess a fee to cover the costs attributable to implementing the program.

(e) The powers under this section shall be construed as purposes as well as powers.

SECTION 2. IC 20-6.1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) A school corporation may grant a teacher a leave of absence, for at most one (1) year, for a sabbatical or for disability or sick leave. The school corporation may grant consecutive leaves. A school corporation may grant partial compensation for any leave in an amount it determines. However, if a teacher:

(1) on a sabbatical serves an employer that agrees to reimburse the school corporation in whole or in part of the amount of the teacher's regular salary, the school corporation may grant full or partial compensation; or

(2) is assaulted while performing the teacher's duties:

(A) the school corporation shall grant full compensation for any resulting leave required by the teacher until the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties; and

(B) the compensation granted under clause (A) does not count against the teacher's sick leave or vacation leave benefits.

Any teacher who is pregnant shall be granted a leave of absence for the period provided in and subject to the provisions of section 4 of this chapter. Except where a contract is not required under IC 20-6.1-4-10 through IC 20-6.1-4-16 in any situation occurring before or after the commencement of leave, the teacher and the school corporation shall execute a regular teacher's contract for each school year in which any part of the teacher's leave is granted, and the teacher shall have the right to return to a teaching position for which the teacher is certified or otherwise qualified in accordance with the rules of the state board of education.

(b) Rights existing at the time leave commences, which arise from a teacher's:

(1) status as a permanent teacher;

(2) accumulation of successive years of service;

(3) service performed under a teacher's contract pursuant to IC 20-6.1-4-9; or

(4) status or rights negotiated under IC 20-7.5;

shall remain intact except as provided in subsection (a).

(c) During leave, the teacher may maintain coverage in any group



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insurance program by paying the total premium including the school corporation's share, if any, attributable to the leave period. The school corporation may elect to pay all or part of the cost of the premium as an adopted or negotiated fringe benefit to teachers on leave.

(d) During leave extending into a part of a school year, a teacher shall accumulate sick leave in accordance with the provisions of IC 20-6.1-5-6, or any salary schedule of the school corporation providing greater sick leave, in the same proportion which the number of days the teacher is paid during such year for work or leave bears to the total number of days for which teachers are paid in the school corporation.

(e) During leave of a nonpermanent teacher, the period of probationary successive years of service under a teacher's contract which is a condition precedent to becoming a permanent teacher under IC 20-6.1-4-9 shall be uninterrupted for that teacher except as provided in subsection (a). However, this probationary period shall not include an entire school year spent on leave.

(f) All or part of a leave granted for sickness or disability, including pregnancy-related disability, may be charged at the teacher's discretion to the teacher's available sick days. However, the teacher is not entitled to take accumulated sick leave days when the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties. The teacher is entitled to complete the remaining leave without pay.

SECTION 3. IC 20-6.1-6-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. If:**

(1) a teacher is unable to attend school because an emergency has been declared by the civil authorities in the county in which the teacher resides; and

(2) the school corporation receives verification that an emergency was declared;

the teacher shall receive contingency leave with pay for the period that the teacher was unable to attend school.

SECTION 4. IC 20-8.1-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) As used in this article, the term "expulsion" means a disciplinary or other action whereby a student **is separated from attending the student's assigned school program for:**

(1) is separated from school attendance for a period in excess of ten (10) school days;

(2) is separated from school attendance for the balance of the



current semester or current year unless a student is permitted to complete required examinations in order to receive credit for courses taken in the current semester or current year; or

(3) ~~is separated from school attendance for the period prescribed under IC 20-8.1-5.1-10. which may include an assignment to attend an alternative school; an alternative educational program; or a homebound educational program.~~

(b) The term does not include situations when a student is:

(1) disciplined under IC 20-8.1-5.1-18;

(2) removed from school in accordance with IC 20-8.1-7-8; or

(3) removed from school for failure to comply with the immunization requirements of IC 20-8.1-7-10.1.

SECTION 5. IC 20-8.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. This chapter applies to each situation which involves any of the following:

(1) A person less than eighteen (18) years of age who is domiciled in Indiana.

(2) A person less than eighteen (18) years of age who is not domiciled in Indiana and who intends to remain in Indiana for a period of time as established by rule of the Indiana state board of education.

(3) A student:

(A) who is less than eighteen (18) years of age; **and**

(B) whose behavior has resulted in an expulsion from school. **and**

~~(C) who is assigned to attend an alternative school or an alternative educational program.~~

SECTION 6. IC 20-8.1-5.1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3.5. (a) This section does not apply to a student who is expelled under section 11 of this chapter.**

(b) A school corporation shall provide an educational program for a student who receives an expulsion under this chapter. The student's educational program may include assignment to attend the following:

(1) An alternative school.

(2) An alternative educational program.

(3) A homebound educational program.

(4) A correspondence course.

(5) A cooperative program with another school corporation.

(6) A program under the supervision of the judicial system.

(7) An educational program that the school corporation



designs.

(c) A grant program is established to assist in the funding of educational programs for expelled students. The department of education shall:

(1) distribute grants under this section at the time that the department distributes alternative education program grants under IC 21-3-11; and

(2) provide grants from money appropriated for alternative education program grants under IC 21-3-11.

The amount of the grant to each school corporation must equal the number of expelled students receiving educational services from the school corporation multiplied by the per pupil amount provided by the alternative education program grant under IC 21-3-11. However, a student who is counted for purposes of receiving an alternative education grant may not count for purposes of determining the amount of a grant under this section.

(d) Attendance at an educational program assigned under this section satisfies the compulsory school attendance requirements of IC 20-8.1-3.

SECTION 7. IC 20-8.1-5.1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7.5. Before a person may initiate action to suspend or expel a student under this chapter, the person must consult the following in an advisory capacity:**

(1) A teacher, if any, who is involved in the matter giving rise to possible disciplinary action against the student.

(2) A classroom teacher of the student.

SECTION 8. IC 20-8.1-5.1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. (a) This section applies to a person who:**

(1) is a member of the administrative staff, a teacher, or other school staff member; and

(2) has students under the person's charge.

(b) A person may take disciplinary action in addition to suspension and expulsion that is necessary to ensure a safe, orderly, and effective educational environment. **However, if the person who wishes to take disciplinary action under this section is not a teacher of the student, before the person may take disciplinary action under this section, the person must consult the following in an advisory capacity:**

(1) A teacher, if any, who is involved in the matter giving rise to possible disciplinary action against the student.



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(2) A classroom teacher of the student.

(c) Disciplinary action under this section may include the following:

- (1) Counseling with a student or group of students.
- (2) Conferences with a parent or group of parents.
- (3) Assigning additional work.
- (4) Rearranging class schedules.
- (5) Requiring a student to remain in school after regular school hours to do additional school work or for counseling.
- (6) Restricting extracurricular activities.
- (7) Removal of a student by a teacher from that teacher's class for a period not to exceed:

(A) five (5) class periods for middle, junior high, or high school students; or

(B) one (1) school day for elementary school students;

if the student is assigned regular or additional school work to complete in another school setting.

(8) Assignment by the principal of:

(A) a special course of study;

(B) an alternative educational program; or

(C) an alternative school.

(9) Assignment by the principal of the school where the recipient of the disciplinary action is enrolled of not more than one hundred twenty (120) hours of service with a nonprofit organization operating in or near the community where the school is located or where the student resides. The following apply to service assigned under this subdivision:

(A) A principal may not assign a student under this subdivision unless the student's parent or guardian approves:

- (i) the nonprofit organization where the student is assigned; and

- (ii) the plan described in clause (B)(i).

A student's parent or guardian may request or suggest that the principal assign the student under this subdivision.

(B) The principal shall make arrangements for the student's service with the nonprofit organization. Arrangements must include the following:

- (i) A plan for the service that the student is expected to perform.
- (ii) A description of the obligations of the nonprofit organization to the student, the student's parents, and the school corporation where the student is enrolled.
- (iii) Monitoring of the student's performance of service by



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the principal or the principal's designee.

(iv) Periodic reports from the nonprofit organization to the principal and the student's parent or guardian of the student's performance of the service.

(C) The nonprofit organization must obtain liability insurance in the amount and of the type specified by the school corporation where the student is enrolled that is sufficient to cover liabilities that may be incurred by a student who performs service under this subdivision.

(D) Assignment of service under this subdivision suspends the implementation of a student's suspension or expulsion. A student's completion of service assigned under this subdivision to the satisfaction of the principal and the nonprofit organization terminates the student's suspension or expulsion.

(10) Removal of a student from school sponsored transportation.

(11) Referral to the juvenile court having jurisdiction over the student.

(d) As used in this subsection, "physical assault" means the knowing or intentional touching of another person in a rude, insolent, or angry manner. When a student physically assaults a person having authority over the student, the principal of the school where the student is enrolled shall make a referral of the student to the juvenile court having jurisdiction over the student. However, a student with disabilities (as defined in IC 20-1-6.1-7) who physically assaults a person having authority over the student is subject to procedural safeguards under 20 U.S.C. 1415.

SECTION 9. IC 20-8.1-5.1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 24. (a) If a student is suspended ~~or expelled~~ from a school or from any educational function under this chapter, the student's absence from school because of the suspension ~~or expulsion~~ is not a violation of IC 20-8.1-3 or any other statute relating to compulsory school attendance.

(b) If a student is expelled from a school or from any educational function under this chapter, the student's absence from the educational program to which the student is assigned because of the expulsion is a violation of IC 20-8.1-3 or any other statute relating to compulsory school attendance.

SECTION 10. IC 20-8.1-6.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) As used in this section, the following terms have the following meanings:

(1) "Class of school" refers to a classification of each school or program in the transferee corporation by the grades or special

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programs taught at the school. Generally, these classifications are denominated as kindergarten, elementary school, middle school or junior high school, high school, and special schools or classes, such as schools or classes for special education, vocational training, or career education.

(2) "ADM" means the following:

(A) For purposes of allocating to a transfer student state distributions under IC 21-1-30 (primetime), "ADM" as computed under IC 21-1-30-2.

(B) For all other purposes, "ADM" as set forth in IC 21-3-1.6-1.1.

(3) "Pupil enrollment" means the following:

(A) The total number of students in kindergarten through grade 12 who are enrolled in a transferee school corporation on a date determined by the Indiana state board of education.

(B) The total number of students enrolled in a class of school in a transferee school corporation on a date determined by the Indiana state board of education.

However, a kindergarten student shall be counted under clauses

(A) and (B) as one-half (1/2) a student.

(4) "Special equipment" means equipment that during a school year:

(A) is used only when a child with disabilities is attending school;

(B) is not used to transport a child to or from a place where the child is attending school;

(C) is necessary for the education of each child with disabilities that uses the equipment, as determined under the individualized instruction program for the child; and

(D) is not used for or by any child who is not a child with disabilities.

The Indiana state board of education may select a different date for counts under subdivision (3). However, the same date shall be used for all school corporations making a count for the same class of school.

(b) Each transferee corporation is entitled to receive for each school year on account of each transferred student, except a student transferred under section 3 of this chapter, transfer tuition from the transferor corporation or the state as provided in this chapter. Transfer tuition equals the amount determined under STEP THREE of the following formula:

STEP ONE: Allocate to each transfer student the capital expenditures for any special equipment used by the transfer



student and a proportionate share of the operating costs incurred by the transferee school for the class of school where the transfer student is enrolled.

STEP TWO: If the transferee school included the transfer student in the transferee school's ADM for a school year, allocate to the transfer student a proportionate share of the following general fund revenues of the transferee school for, except as provided in clause (C), the calendar year in which the school year ends:

(A) The following state distributions that are computed in any part using ADM or other pupil count in which the student is included:

(i) Primetime grant under IC 21-1-30.

(ii) Tuition support for basic programs and at-risk weights under IC 21-3-1.7-8 (before January 1, 1996) and only for basic programs (after December 31, 1995).

(iii) Enrollment growth grant under IC 21-3-1.7-9.5.

(iv) At-risk grant under IC 21-3-1.7-9.7.

(v) Academic honors diploma award under IC 21-3-1.7-9.8.

(vi) Vocational education grant under IC 21-3-1.8-3.

(vii) Special education grant under IC 21-3-1.8 (repealed January 1, 1996) or IC 21-3-10.

(viii) The portion of the ADA flat grant that is available for the payment of general operating expenses under IC 21-3-4.5-2(b)(1).

(B) For school years beginning after June 30, 1997, property tax levies.

(C) For school years beginning after June 30, 1997, excise tax revenue (as defined in IC 21-3-1.7-2) received for deposit in the calendar year in which the school year begins.

(D) For school years beginning after June 30, 1997, allocations to the transferee school under IC 6-3.5.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the result of subtracting the STEP TWO amount from the STEP ONE amount.

If a child is placed in an institution or facility in Indiana under a court order, the institution or facility shall charge the county office of the county of the student's legal settlement under IC 12-19-7 for the use of the space within the institution or facility (commonly called capital costs) that is used to provide educational services to the child based upon a prorated per student cost.

(c) Operating costs shall be determined for each class of school

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where a transfer student is enrolled. The operating cost for each class of school is based on the total expenditures of the transferee corporation for the class of school from its general fund expenditures as specified in the classified budget forms prescribed by the state board of accounts. This calculation excludes:

- (1) capital outlay;
- (2) debt service;
- (3) costs of transportation;
- (4) salaries of board members;
- (5) contracted service for legal expenses; and
- (6) any expenditure which is made out of the general fund from extracurricular account receipts;

for the school year.

(d) The capital cost of special equipment for a school year is equal to:

- (1) the cost of the special equipment; divided by
- (2) the product of:
 - (A) the useful life of the special equipment, as determined under the rules adopted by the Indiana state board of education; multiplied by
 - (B) the number of students using the special equipment during at least part of the school year.

(e) When an item of expense or cost described in subsection (c) cannot be allocated to a class of school, it shall be prorated to all classes of schools on the basis of the pupil enrollment of each class in the transferee corporation compared to the total pupil enrollment in the school corporation.

(f) Operating costs shall be allocated to a transfer student for each school year by dividing:

- (1) the transferee school corporation's operating costs for the class of school in which the transfer student is enrolled; by
- (2) the pupil enrollment of the class of school in which the transfer student is enrolled.

When a transferred student is enrolled in a transferee corporation for less than the full school year of pupil attendance, the transfer tuition shall be calculated by the portion of the school year for which the transferred student is enrolled. A school year of pupil attendance consists of the number of days school is in session for pupil attendance. A student, regardless of the student's attendance, is enrolled in a transferee school unless the student is no longer entitled to be transferred because of a change of residence ~~the student has been excluded or expelled from school for the balance of the school year or~~



1 ~~for an indefinite period~~, or the student has been confirmed to have
 2 withdrawn from school. The transferor and the transferee corporation
 3 may enter into written agreements concerning the amount of transfer
 4 tuition due in any school year. Where an agreement cannot be reached,
 5 the amount shall be determined by the Indiana state board of education,
 6 and costs may be established, when in dispute, by the state board of
 7 accounts.

8 (g) A transferee school shall allocate revenues described in
 9 subsection (b) STEP TWO to a transfer student by dividing:

10 (1) the total amount of revenues received; by

11 (2) the ADM of the transferee school for the school year that ends
 12 in the calendar year in which the revenues are received.

13 However, for state distributions under IC 21-1-30, IC 21-3-10, or any
 14 other statute that computes the amount of a state distribution using less
 15 than the total ADM of the transferee school, the transferee school shall
 16 allocate the revenues to the transfer student by dividing the revenues
 17 that the transferee school is eligible to receive in a calendar year by the
 18 pupil count used to compute the state distribution.

19 (h) In lieu of the payments provided in subsection (b), the transferor
 20 corporation or state owing transfer tuition may enter into a long term
 21 contract with the transferee corporation governing the transfer of
 22 students. This contract is for a maximum period of five (5) years with
 23 an option to renew, and may specify a maximum number of pupils to
 24 be transferred and fix a method for determining the amount of transfer
 25 tuition and the time of payment, which may be different from that
 26 provided in section 9 of this chapter.

27 (i) If the school corporation can meet the requirements of
 28 IC 21-1-30-5, it may negotiate transfer tuition agreements with a
 29 neighboring school corporation that can accommodate additional
 30 students. Agreements under this section may be for one (1) year or
 31 longer and may fix a method for determining the amount of transfer
 32 tuition or time of payment that is different from the method, amount,
 33 or time of payment that is provided in this section or section 9 of this
 34 chapter. A school corporation may not transfer a student under this
 35 section without the prior approval of the child's parent or guardian.

36 (j) If a school corporation experiences a net financial impact with
 37 regard to transfer tuition that is negative for a particular school year as
 38 described in IC 6-1.1-19-5.1, the school corporation may appeal for an
 39 excessive levy as provided under IC 6-1.1-19-5.1.

40 SECTION 11. IC 20-8.1-6.5-3 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. ~~Transfer Tuition:~~ (a)
 42 The transferee corporation shall be entitled to receive from the

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1 transferor corporation transfer tuition for each transferred student for
 2 each school year calculated in two (2) parts: operating cost and capital
 3 cost. These shall be allocated on a per student basis separately for each
 4 class of school.

5 (b) The operating cost for each class of school shall be based on the
 6 total expenditures of the transferee corporation for such class from its
 7 general fund expenditures as set out on the classified budget forms
 8 prescribed by the state board of accounts, excluding from such
 9 calculation capital outlay, debt service, costs of transportation, salaries
 10 of board members, contracted service for legal expenses and any
 11 expenditure which is made out of the general fund from extracurricular
 12 account receipts, for the school year.

13 (c) The capital cost for each class of school shall consist of the
 14 lesser of the following two (2) alternatives: Alternative one shall be
 15 based on an amount equal to five percent (5%) of the cost of transferee
 16 corporation's physical plant, equipment and all appurtenances thereto
 17 (including but not limited to buildings, additions and remodeling
 18 thereof, except ordinary maintenance, on-site and off-site
 19 improvements such as walks, sewers, waterlines, drives, and
 20 playgrounds) theretofore paid or obligated to be paid in the future out
 21 of the general fund, capital projects fund, or debt service fund,
 22 including but not limited to principal and interest and lease rental
 23 payments (or out of funds which were legal predecessors to these
 24 funds). Where any item of physical plant, equipment appurtenances, or
 25 portion thereof is more than twenty (20) years old at the beginning of
 26 the school year, the capital cost thereof shall be disregarded in making
 27 such computation. Alternate two shall be based on the amount
 28 budgeted from the general fund for capital outlay for physical plant,
 29 equipment and appurtenances and the amounts levied for the debt
 30 service fund and the capital projects fund, for the calendar year in
 31 which the school year ends.

32 (d) Where an item of expense or cost cannot be allocated to a class
 33 of school, it shall be prorated to all classes of schools on the basis of
 34 the ADM of each class in the transferee corporation compared to the
 35 total ADM therein.

36 (e) The transfer tuition for each student transferred for each school
 37 year shall be calculated by dividing the transferee school corporation's
 38 total operating costs and the total capital costs for the class of school
 39 in which the student is enrolled by the ADM of students therein. Where
 40 a transferred student is enrolled in a transferee corporation for less than
 41 the full school year the transfer tuition shall be calculated by the
 42 proportion of such school year for which the transferred student is



enrolled. A school year for this purpose shall consist of the number of days school is in session for pupil attendance. A student shall be enrolled in a transferee school, whether or not ~~he the student~~ is in attendance, unless ~~his the student's~~ residence is outside the area of students transferred to the transferee corporation or ~~he has been excluded or expelled from school or the student~~ has been confirmed as a school dropout. The transferor and transferee corporations may enter into written agreements concerning the amount of transfer tuition. Where an agreement cannot be reached the amount shall be determined by the superintendent of public instruction, with costs to be established, where in dispute, by the state board of accounts.

(f) The transferor corporation shall also pay the transferee corporation, when billed, the amount of book rental due from transferred students who are unable to pay the amount thereof. The transferor corporation shall be entitled to collect the amount of such book rental from the appropriate township trustee, from its own funds, or from any other source, in the amounts and manner provided by applicable law.

SECTION 12. IC 20-8.1-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 12.5. Reporting Requirements; Threat or Intimidation of a School Employee

Sec. 1. As used in this chapter, "intimidation" refers to intimidation under IC 35-45-2-1.

Sec. 2. As used in this chapter, "threat" has the meaning set forth in IC 35-45-2-1.

Sec. 3. In addition to any other duty to report arising under this article, an individual who has reason to believe that a school employee has received a threat or is the victim of intimidation shall report that information as required by this article.

Sec. 4. (a) If an individual who is required to make a report under this article is a member of the staff of a school, the individual shall make the report by immediately notifying the principal of the school that a school employee may have received a threat or may be the victim of intimidation.

(b) An individual who receives a report under subsection (a) shall immediately make a report or cause a report to be made under section 6 of this chapter.

Sec. 5. This chapter does not relieve an individual of the obligation to report a threat or intimidation on the individual's own behalf, unless a report has already been made to the best of

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the individual's belief.

Sec. 6. A person who has a duty under this chapter to report that a school employee may have received a threat or may be the victim of intimidation shall immediately make an oral report to the local law enforcement agency.

Sec. 7. Except as provided in section 8 of this chapter, a person, other than a person accused of making a threat or intimidating a school employee, who:

- (1) makes, or causes to be made, a report under this chapter;
- (2) participates in any judicial proceeding or other proceeding:

- (A) resulting from a report under this chapter; or

- (B) relating to the subject matter of the report;

is immune from any civil or criminal liability that might otherwise be imposed because of such actions.

Sec. 8. A person who has acted maliciously or in bad faith is not immune from civil or criminal liability under this chapter.

Sec. 9. A person making a report under this chapter or assisting in any requirement of this chapter is presumed to have acted in good faith.

SECTION 13. IC 20-10.1-30 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 30. Parental Declaration of Responsibilities

Sec. 1. This chapter applies to public schools.

Sec. 2. As used in this chapter, "declaration" refers to a parental declaration of responsibilities created under this chapter.

Sec. 3. The department shall do the following:

- (1) Work with parent and teacher organizations to create a parental declaration of responsibilities that meets the requirements of this chapter.
- (2) Work with parent and teacher organizations to periodically revise the declaration when the department considers revision necessary.
- (3) Encourage schools and school corporations to adopt the declaration as a policy of the school or school corporation.
- (4) Encourage parents at the beginning of each school year to agree in writing to carry out to the best of the parents' abilities the responsibilities set forth in the declaration.

Sec. 4. A parental declaration of responsibilities created under section 3 of this chapter must do the following:

- (1) Reflect the policy that there is no adequate substitute for



the involvement of a concerned and committed parent or family in the education of a child.

(2) Reflect the policy that a school should welcome and foster positive involvement in the school by parents and families.

(3) Encourage parents and families to become involved in the education of children.

(4) Reflect the following elements as among the most important elements of effective parental and family involvement in education:

(A) Regular, two-way, meaningful communication between parents and schools.

(B) Effective parenting skills exercised by parents for the benefit of their children, and fostered by schools.

(C) Parental involvement in student learning in which parents play an integral role in student learning by emphasizing the importance of education, and in which schools assist parents in this endeavor.

(D) Volunteerism in which parents are welcomed by schools, and parents commit themselves to providing support to their children's schools as volunteers.

(E) School based decision making in which parents involve themselves in the educational decision making process at the school and school corporation level and are welcomed in that role by the schools.

(5) Identify the responsibilities of parents and families.

(6) Identify the responsibilities of schools in helping parents and families meet parental responsibilities as stated in the declaration.

(7) Include other elements of effective parental involvement that the department identifies.

SECTION 14. IC 21-3-1.6-1.1, AS AMENDED BY P.L.93-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.1. As used in this chapter:

(a) "School corporation" means any local public school corporation established under Indiana law.

(b) "School year" means a year beginning July 1 and ending the next succeeding June 30.

(c) "State distribution" due a school corporation means the amount of state funds to be distributed to a school corporation in any calendar year under this chapter.

(d) "Average daily membership" or "ADM" of a school corporation means the number of eligible pupils enrolled in the school corporation

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or in a transferee corporation on a day to be fixed annually by the Indiana state board of education. Such day shall fall within the first thirty (30) days of the school term. If, however, extreme patterns of student in-migration, illness, natural disaster, or other unusual conditions in a particular school corporation's enrollment on the particular day thus fixed, cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the Indiana state board of education may designate another day for determining the school corporation's enrollment. The Indiana state board of education shall monitor changes, which occur after the fall count, in the number of students enrolled in programs for children with disabilities and shall, before December 2 of that same year, make an adjusted count of students enrolled in programs for children with disabilities. The superintendent of public instruction shall certify the adjusted count to the budget committee before February 5 of the following year. In determining the ADM, each kindergarten pupil shall be counted as one-half (1/2) pupil. Where a school corporation commences kindergarten in a school year, the ADM of the current and prior calendar years shall be adjusted to reflect the enrollment of the kindergarten pupils. In determining the ADM, each pupil enrolled in a public school and a nonpublic school is to be counted on a full-time equivalency basis as provided in section 1.2 of this chapter. "Current ADM" of a school corporation used in computing its state distribution in a calendar year means the ADM of the school year ending in the calendar year. "ADM of the previous year" or "ADM of the prior year" of a school corporation used in computing its state distribution in a calendar year means the ADM of the school corporation for the school year ending in the preceding calendar year.

(e) "Additional count" of a school corporation, or comparable language, means the aggregate of the additional counts of the school corporation for certain pupils as set out in section 3 of this chapter and as determined at the times for calculating ADM. "Current additional count" means the additional count of the school corporation for the school year ending in the calendar year. "Prior year additional count" of a school corporation used in computing its state distribution in a calendar year means the additional count of the school corporation for the school year ending in the preceding calendar year.

(f) "Adjusted assessed valuation" of any school corporation used in computing state distribution for a calendar year means the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34. The amount of the valuation shall also be adjusted downward by the state board of tax commissioners to the extent it

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consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, then the state superintendent of public instruction shall prescribe adjustments in the distributions of state funds pursuant to this chapter as are thereafter to become due to a school corporation affected by the delinquency as will ensure that the school corporation will not have been unjustly enriched under the provisions of P.L.382-1987(ss).

(g) "General fund" means a school corporation fund established under IC 21-2-11-2.

(h) "Teacher" means every person who is required as a condition of employment by a school corporation to hold a teacher's license issued or recognized by the state, except substitutes and any person paid entirely from federal funds.

(i) "Teacher ratio" of a school corporation used in computing state distribution in any calendar year means the ratio assigned to the school corporation pursuant to section 2 of this chapter.

(j) "Eligible pupil" means a pupil enrolled in a school corporation, **including a pupil who has received an expulsion under IC 20-8.1-5.1 and is receiving educational services under IC 20-8.1-5.1-3.5**, if:

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-8.1-6.1, because the pupil is transferred for education to another school corporation (the "transferee corporation");

(3) the pupil is enrolled in a school corporation as a transfer student under IC 20-8.1-6.1-3 or entitled to be counted for ADM or additional count purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-8.1-6.1; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the

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transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility, child care facility, or foster family home where the pupil was placed:

(i) by or with the consent of the division of family and children;

(ii) by a court order;

(iii) by a child placing agency licensed by the division of family and children; or

(iv) by a parent or guardian under IC 20-8.1-6.1-5.

(k) "General fund budget" of a school corporation means the amount of the budget approved for a given year by the state board of tax commissioners and used by the state board of tax commissioners in certifying a school corporation's general fund tax levy and tax rate for the school corporation's general fund as provided for in IC 21-2-11.

SECTION 15. IC 31-37-19-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 28. (a) Whenever a court adjudicates a child to be a delinquent child, the court shall notify the principal of any public or nonpublic elementary or secondary school that the child attends of the adjudication and disposition of the case.**

(b) Upon written request of an authorized representative of the school, the court, if the court considers it appropriate, may authorize the attorney for the county office of family and children to give the principal of the school a statement of the facts in the case.

(c) A principal who receives information under subsection (a) or (b):

(1) shall release the information to any employees of the school having responsibility for classroom instruction with the child; and

(2) may release the information to any school administrative, transportation, or counseling personnel and any teacher or school employee with whom the student may come in contact.

However, the information must otherwise remain confidential and may not become part of the child's school records.

SECTION 16. IC 34-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a) A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee whose conduct gave rise to the claim resulting in that judgment or settlement. A lawsuit**

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alleging that an employee acted within the scope of the employee's employment must be exclusive to the complaint and bars an action by the claimant against the employee personally. However, if the governmental entity answers that the employee acted outside the scope of the employee's employment, the plaintiff may amend the complaint and sue the employee personally. An amendment to the complaint by the plaintiff under this subsection must be filed not later than one hundred eighty (180) days from the date the answer was filed and may be filed notwithstanding the fact that the statute of limitations has run.

(b) A lawsuit filed against an employee personally must allege that an act or omission of the employee that causes a loss is:

- (1) criminal;
- (2) clearly outside the scope of the employee's employment;
- (3) malicious;
- (4) willful and wanton; or
- (5) calculated to benefit the employee personally.

The complaint must contain a reasonable factual basis supporting the allegations.

(c) **Except as provided in subsection (d), and** subject to the provisions of sections 4, 14, 15, and 16 of this chapter, the governmental entity shall pay any judgment, compromise, or settlement of a claim or suit against an employee when:

- (1) the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss; and
- (2) the:
 - (A) governor in the case of a claim or suit against a state employee; or
 - (B) governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision; determines that paying the judgment, compromise, or settlement is in the best interest of the governmental entity.

(d) Subject to the provisions of sections 4 and 16 of this chapter, a school corporation shall pay any judgment, compromise, or settlement of a claim or suit against an employee when the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee may be held personally liable for the loss.

(e) The governmental entity shall provide counsel for and pay all costs and fees incurred by or on behalf of an employee in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of the employee's employment, regardless of whether the

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employee can or cannot be held personally liable for the loss.

~~(e)~~ (f) This chapter shall not be construed as:

- (1) a waiver of the eleventh amendment to the Constitution of the United States;
- (2) consent by the state of Indiana or its employees to be sued in any federal court; or
- (3) consent to be sued in any state court beyond the boundaries of Indiana.

SECTION 17. IC 34-30-2-85.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 85.1. IC 20-8.1-12.5-7 (Concerning a person who reports or causes a report to be made of a threat against, or intimidation of, a school employee).**

SECTION 18. IC 35-45-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) A person who communicates a threat to another person, with the intent that:

- (1) the other person engage in conduct against ~~his~~ **the other person's** will; or
- (2) the other person be placed in fear of retaliation for a prior lawful act;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

- (1) Class D felony if:
 - (A) the threat is to commit a forcible felony;
 - (B) the person to whom the threat is communicated:
 - (i) is a law enforcement officer;
 - (ii) is a judge or bailiff of any court;
 - (iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat; or
 - (iv) is an employee of a school corporation; ~~or~~
 - (C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; ~~and or~~
 - (D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and**

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

- (1) unlawfully injure the person threatened or another person, or damage property;



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- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule; or
- (7) falsely harm the credit or business reputation of the person threatened.

SECTION 19. IC 35-50-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 3.5. Release of Certain Criminal Records of a Child to a School the Child Attends

Sec. 1. Whenever a court convicts a child of an offense, the court shall notify the principal of any public or nonpublic school that the child attends of the child's conviction and sentence for the offense.

Sec. 2. Upon written request of an authorized representative of the school, the court, if the court considers it appropriate, may authorize the prosecuting attorney to give the principal of the school a statement of the facts of the case.

Sec. 3. A principal who receives information under section 1 or 2 of this chapter:

- (1) shall release the information to employees of the school having responsibility for classroom instruction with the child; and
- (2) shall release the information to employees of the school having responsibility for school safety.

Sec. 4. Information released under this chapter may not become part of the child's school records.

SECTION 20. [EFFECTIVE JULY 1, 2001] To the extent that IC 20-6.1-6-1, as amended by this act, and IC 20-6.1-6-18, as added by this act, conflict with the terms of a collective bargaining agreement under IC 20-7.5, IC 20-6.1-6-1, as amended by this act, and IC 20-6.1-6-18, as added by this act, apply to a collective bargaining agreement that is entered into, amended, or renewed under IC 20-7.5 after June 30, 2001.



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1891, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 3. IC 20-6.1-6-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. If:**

(1) a teacher is unable to attend school because an emergency has been declared by the civil authorities in the county in which the teacher resides; and

(2) the school corporation receives verification that an emergency was declared;

the teacher shall receive contingency leave with pay for the period that the teacher was unable to attend school."

Page 19, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 15. IC 34-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee whose conduct gave rise to the claim resulting in that judgment or settlement. A lawsuit alleging that an employee acted within the scope of the employee's employment must be exclusive to the complaint and bars an action by the claimant against the employee personally. However, if the governmental entity answers that the employee acted outside the scope of the employee's employment, the plaintiff may amend the complaint and sue the employee personally. An amendment to the complaint by the plaintiff under this subsection must be filed not later than one hundred eighty (180) days from the date the answer was filed and may be filed notwithstanding the fact that the statute of limitations has run.

(b) A lawsuit filed against an employee personally must allege that an act or omission of the employee that causes a loss is:

- (1) criminal;
- (2) clearly outside the scope of the employee's employment;
- (3) malicious;
- (4) willful and wanton; or
- (5) calculated to benefit the employee personally.

The complaint must contain a reasonable factual basis supporting the allegations.

(c) **Except as provided in subsection (d), and** subject to the provisions of sections 4, 14, 15, and 16 of this chapter, the

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governmental entity shall pay any judgment, compromise, or settlement of a claim or suit against an employee when:

(1) the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss; and

(2) the:

(A) governor in the case of a claim or suit against a state employee; or

(B) governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision; determines that paying the judgment, compromise, or settlement is in the best interest of the governmental entity.

(d) Subject to the provisions of sections 4 and 16 of this chapter, a school corporation shall pay any judgment, compromise, or settlement of a claim or suit against an employee when the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee may be held personally liable for the loss.

(e) The governmental entity shall provide counsel for and pay all costs and fees incurred by or on behalf of an employee in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss.

(f) This chapter shall not be construed as:

(1) a waiver of the eleventh amendment to the Constitution of the United States;

(2) consent by the state of Indiana or its employees to be sued in any federal court; or

(3) consent to be sued in any state court beyond the boundaries of Indiana."

Page 21, line 11, after "act," insert "**and IC 20-6.1-6-18, as added by this act,**".

Page 21, line 11, delete "conflicts" and insert "**conflict**".

Page 21, line 12, after "IC 20-6.1-6-1" insert "**, as amended by this act,**".

Page 21, line 13, delete "applies" and insert "**and IC 20-6.1-6-18, as added by this act, apply**".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to HB 1891 as introduced.)

PORTER, Chair

Committee Vote: yeas 8, nays 5.

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